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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

15 || *People of the State of California, et al.*

MDL No. 3047

16 ||

Case Nos. 4:23-cv-05448-YGR

17 *Meta Platforms, Inc., Instagram, LLC, Meta*
18 *Payments, Inc., Meta Platforms Technologies,*
LLC

4:23-cv-05885-YGR

20 *Office of the Attorney General, State of Florida,
Department of Legal Affairs*

**STATE ATTORNEYS GENERAL'S
RESPONSE TO PRO SE MOTION TO
INTERVENE**

Judge: Honorable Yvonne Gonzalez Rogers

22 | Meta Platforms, Inc. Instagram LLC

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION

27 THIS DOCUMENT RELATES TO:
4:23-cv-05448 4:23-cv-05885

INTRODUCTION

2 Taiming Zhang’s (“Zhang”) pro se motion to intervene is an improper attempt to insert
3 private claims for individual relief into public law-enforcement actions brought by 33 state
4 attorneys general and the Florida Attorney General (collectively the “State AGs”). As this Court
5 recently held in denying a similar motion, the Federal Rules of Civil Procedure and this Circuit’s
6 precedent do not allow Zhang to intervene in this action: “This state attorneys general
7 enforcement action involves interests separate from [the proposed intervenor]’s. Further, the
8 instant case does not preclude [the proposed intervenor] from seeking relief on an individualized
9 basis.” Dkt. No. 80 at 1; *see also id.* at 5 (“[The proposed intervenor] is nonetheless free to file his
10 own complaint against defendant Meta. Nothing about this state attorneys general enforcement
11 action precludes him from doing so.”).

ARGUMENT

I. ZHANG HAS NO MANDATORY RIGHT TO INTERVENE.

14 Zhang cannot establish a mandatory right to intervene in this public enforcement action.
15 Rule 24(a) gives a right to intervene to anyone who is “given an unconditional right to intervene
16 by federal statute” or, alternatively, anyone who has (1) “an interest relating to the property or
17 transaction that is the subject of the action” that (2) would be “impair[ed] or impede[d]” if the
18 person was not permitted to intervene and (3) could not be “adequately represent[ed]” by the
19 existing parties. Fed. R. Civ. P. 24(a)(1)-(2); *see also, e.g., Cal. Dep’t of Toxic Substances*
20 *Control v. Jim Dobbas, Inc.*, 54 F.4th 1078, 1086 (9th Cir. 2022). The burden is on Zhang to
21 establish that Rule 24’s factors are met. *Id.* Here, Zhang does not identify an unconditional right
22 to intervene and does not meet any of the three factors that would alternatively give rise to such a
23 right.

24 **First**, Zhang does not have a legally sufficient interest in the “property or transaction”
25 underlying this enforcement action. *See, e.g., Donaldson v. United States*, 400 U.S. 517, 531
26 (1971) (requiring a “significantly protectable interest”); *United States v. Alisal Water Corp.*, 370
27 F.3d 915, 919-20 (9th Cir. 2004) (holding that an “interest must be concrete,” not “several
28 degrees removed” or “prospective”). Here, the State AGs have brought a public enforcement

1 action that does not involve property that Zhang has a claim to, contracts Zhang is party to, or
 2 Zhang's economic interests. Zhang's interest in the State AGs' public enforcement action appears
 3 to derive from pending litigation against Twitter (not a defendant in the State AGs' action)
 4 involving allegations of breach of contract, tortious conduct, and common law fraud (not claims
 5 in the State AGs' action against Meta) seeking, among other remedies, reinstatement of Zhang's
 6 suspended Twitter account (not relief the State AGs are seeking). *See Complaint at ¶¶ 1, 42,*
 7 *Taiming Zhang v. Twitter, Inc.*, 3:23-cv-00980 (N.D. Cal., Mar. 2, 2023). Also, Zhang's possible
 8 generalized interest in the potential application of the Communications Decency Act to the State
 9 AGs' separate action is insufficient to support mandatory intervention. *See Donaldson*, 400 U.S.
 10 at 531. For this reason alone, Zhang's motion for mandatory intervention must be denied.

11 **Second**, the State AGs' public enforcement action against Meta has no impact on Zhang's
 12 interests because Zhang is free to engage in separate litigation. As the Court recently held in
 13 denying a similar attempt to intervene in this enforcement action, "an individual's interests are
 14 not impeded or impaired by a pending case when they can be 'raise[d] . . . through a separate
 15 lawsuit[.]" Dkt 80 at 3 (quoting *Warren v. Comm'r of Internal Revenue*, 302 F.3d 1012, 1015
 16 (9th Cir. 2002)) (alterations in original). As there, "[h]ere, [Zhang] is free to file a private action
 17 . . . and to seek consolidation of such an action with the multi-district litigation of which this case
 18 is a part." *Id.* Indeed, Zhang's separate action against Twitter demonstrates that the State AGs'
 19 separate public enforcement action against Meta in no way impedes Zhang's interests or ability to
 20 litigate.

21 **Third**, to the extent that Zhang has a generalized interest in the public rights that the State
 22 AGs seek to vindicate, the State AGs are best situated to represent that interest. When the
 23 government is representing the public, there is an "assumption of adequacy." *Arakaki v.*
 24 *Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003). Thus, the proposed intervenor must make a "very
 25 compelling showing" that the government cannot adequately represent public rights. *Oakland*
 26 *Bulk & Oversized Terminal, LLC v. City of Oakland*, 960 F.3d 603, 620 (9th Cir. 2020). Zhang
 27 makes no showing, nor could Zhang. In sum, Zhang meets none of the requirements for
 28 mandatory intervention.

II. ZHANG HAS NO BASIS TO PERMISSIVELY INTERVENE.

In the absence of grounds for mandatory intervention, the Court may permit intervention to anyone who “is given a conditional right to intervene by a federal statute” or who “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(A)-(B). Zhang has not made either showing.

As an initial matter, Zhang does not identify a federal statute that provides a conditional right to intervene, and the State AGs are unaware of one. Further, there are no common questions of fact or law as Zhang appears to invoke contract, tort, and common-law theories that are absent from the State AGs' case. By contrast, as this Court observed, the state AG's action focuses on "misconduct stemming from Meta's (1) collection of data from users under thirteen years old without required parental notification and consent; (2) misrepresentations surrounding the safety of its social media platforms; and (3) the deceptive and unfair constellation of features that prolong engagement and lead to youth addiction." Dkt. 80 at 5 (citation and quotation marks omitted). These significant differences, and the fact that Zhang is "free to file his own complaint," Dkt. 80 at 5, underscore that permissive intervention should also be denied.

CONCLUSION

For these reasons, the State AGs respectfully request that the Court deny Taiming Zhang’s motion to intervene in this public enforcement action.

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Respectfully submitted,

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1 **ATTESTATION**

2 I hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of
3 this document has been obtained from each signatory hereto.

4
5 DATED: March 25, 2024

By: /s/ Marissa Roy

6 Marissa Roy

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CERTIFICATE OF SERVICE

3 I hereby certify that on March 25, 2024, I electronically filed the foregoing document with
4 the Clerk of the Court using the CM/ECF system and processed the foregoing document for
5 service by mail to Taiming Zhang at the address provided, 801, No. 21 Taishan Lane, Zhongshan
6 District, Dalian, Liaoning, China.

By: /s/ Marissa Roy

Marissa Roy